

AMENDED IN SENATE JUNE 27, 2003  
AMENDED IN ASSEMBLY JUNE 3, 2003  
AMENDED IN ASSEMBLY APRIL 28, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 928**

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**Introduced by Assembly Member Pacheco**

February 20, 2003

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An act to add Section 487.8 to the Penal Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

AB 928, as amended, Pacheco. Theft: vessels.

Existing law contains various provisions establishing the crime of theft.

This bill would make it an offense punishable by imprisonment in a county jail not exceeding one year, or in the state prison, or by a fine not exceeding \$5,000, or by both that imprisonment and fine, for a person to operate or take a vessel not his or her own, without the consent of the owner, and with the intent either to permanently or temporarily deprive the owner of title to, or possession of, the vessel, with or without intent to steal the vessel, or any person who is a party or an accessory or accomplice in that unlawful operation of, or unauthorized taking or stealing of, the vessel.

The bill would also make it an offense punishable by imprisonment in a county jail not exceeding one year, or in the state prison for 2, 3, or 4 years, or by a fine not exceeding \$10,000, or by both that imprisonment and fine, for a person to commit the offense when the vessel is a distinctively marked bar pilot vessel and the vessel is taken

~~when while transporting~~ United States Coast Guard personnel ~~are onboard and while the vessel is being used to conduct an inspection of another vessel for the purpose of performing security functions.~~

The bill would make the offense punishable by imprisonment in the state prison for 2, 3, or 4 years, or by a fine not exceeding \$10,000, or both that imprisonment and fine when the vessel is distinctively marked as a law enforcement or fire department vessel, and is taken during an emergency call, as specified.

The bill would provide for enhanced sanctions where previous felony convictions are involved.

Because this bill would create new crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 487.8 is added to the Penal Code, to  
2 read:

3 487.8. (a) (1) Except as provided in paragraphs (2) and (3),  
4 any person who operates or takes a vessel not his or her own,  
5 without the consent of the owner, and with the intent either to  
6 permanently or temporarily deprive the owner of his or her title to,  
7 or possession of, the vessel, with or without the intent to steal the  
8 vessel, or a person who is a party or an accessory to or an  
9 accomplice in the operation or unauthorized taking or stealing of  
10 a vessel, is punishable by imprisonment in a county jail for not  
11 more than one year or in the state prison or by a fine of not more  
12 than five thousand dollars (\$5,000), or by both that fine and  
13 imprisonment.

14 (2) If the vessel is distinctively marked as a bar pilot vessel, and  
15 the vessel is taken ~~when while transporting~~ United States Coast  
16 Guard personnel ~~are onboard and while the vessel is being used to~~  
17 ~~conduct an inspection of another vessel for purposes of performing~~

*security functions*, any person committing a violation of paragraph (1) is punishable by imprisonment in a county jail not exceeding one year, or imprisonment in the state prison for two, three, or four years, or a fine not exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine.

(3) If the vessel is a distinctively marked vessel of a law enforcement agency or fire department, and is taken while the vessel is on an emergency call and the fact of the emergency call is known or reasonably should have been known to the person operating or taking *the vessel*, or to any person who is a party or an accessory to, or an accomplice in, the operation or the unauthorized taking or stealing *of the vessel*, the offense is a felony punishable by imprisonment in the state prison for two, three, or four years or by a fine of not more than ten thousand dollars (\$10,000), or by both the fine and imprisonment.

(b) In any prosecution for a violation of subdivision (a), the consent of the owner of a vessel to its taking or operating may not in any case be presumed or implied because of the owner's consent on a previous occasion to the taking or operating of the vessel by the same or a different person.

(c) The existence of the facts of the distinctively marked bar pilot vessel, law enforcement agency vessel, or fire department vessel and the existence of ~~the presence of~~ United States Coast Guard personnel onboard a bar pilot vessel ~~while that vessel is conducting an inspection of another vessel for purposes of performing security functions~~, or the existence of an emergency call, as applicable, shall be alleged in the accusatory pleading for purposes of prosecuting a violation of paragraph (2) or (3) of subdivision (a), and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(d) A person who has been convicted of one or more previous felony violations of this section is punishable by imprisonment in the state prison for two, three, or four years or by a fine not exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine. Any prior felony conviction for a violation of this section shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is

1 established by a plea of guilty or nolo contendere, or by trial by the  
2 court sitting without a jury.

3 (e) As used in this section, “vessel” has the same meaning as  
4 that term is defined in Section ~~24~~ 651 of the Harbors and  
5 Navigation Code.

6 SEC. 2. No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 the only costs that may be incurred by a local agency or school  
9 district will be incurred because this act creates a new crime or  
10 infraction, eliminates a crime or infraction, or changes the penalty  
11 for a crime or infraction, within the meaning of Section 17556 of  
12 the Government Code, or changes the definition of a crime within  
13 the meaning of Section 6 of Article XIII B of the California  
14 Constitution.

